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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,036	02/27/2002	James Bean	3561-131	3987
20575	7590	11/16/2005	EXAMINER	
MARGER JOHNSON & MCCOLLOM, P.C. 210 SW MORRISON STREET, SUITE 400 PORTLAND, OR 97204			JEAN GILLES, JUDE	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/086,036	Applicant(s) BEAN, JAMES	
	Examiner Jude J. Jean-Gilles	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19 is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Action is in regards to the Reply received on 08/25/2005.

Response to Amendment

1. This action is responsive to the application filed on 08/25/2005. Claim 1 has been amended. Claim 19 has been added. Claims 1-19 are pending. Claims 1-19 represent a method and apparatus for an "online web traffic sampling."

Response to Arguments

2. Applicant's arguments with respect to claims 1-19 have been carefully considered, but are not deemed fully persuasive. Applicant's arguments are deemed moot in view of the following new ground of rejection as explained here below, necessitated by Applicant substantial amendment (i.e., a method wherein normalizing the traffic activity from the sample group to obtain normalized data reflecting approximate traffic activity from all visitor computers to the web site) to the claims which significantly affected the scope thereof.

The dependent claims stand rejected as articulated in the First Office Action and all objections not addressed in Applicant's response are herein reiterated.

The claim rejection under 35 U.S.C. paragraph 112 has been withdrawn

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al (Boyd), U.S. Patent No. 6,360,261 B1 in view of Barg et al (Barg), U.S. Pub. No 2002/0070953 A1, further in view of Tamayo et al (Tamayo), U.S. patent No. 6,836,773 B2.

Regarding **claim 1**, Boyd teaches the invention substantially as claimed. Boyd discloses a method for tracking and reporting traffic activity on a web site (*fig. 1, items 9-19*), comprising:

storing a web page on a first server coupled to a network (*column 6, lines 29-37; fig. 3A, items 10-11*);

requesting the web page from a visitor computer (*column 6, lines 29-37; fig. 3A, items 10-11*);

selecting the visitor computer for inclusion or non-inclusion within a sample group, said sample group being a subset of total traffic to the web site (*column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D, items 41-43; note that the total number of hits is 500 hundred hits recorded so far in table 40A*

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and that the sampling group can be considered to be tale 42, keeping the new records' data);

tracking traffic activity to the web site from the visitor computer and/or visitor only if the visitor computer is a member within the sample group, otherwise ignoring the traffic activity from the visitor computer and/or visitor (*column 7, lines 1-21*). However, Boyd does not specifically disclose storing on the visitor computer, after the selecting step, a selection indicator associating with the inclusion or non-inclusion.

In the same field of endeavor, Barg teaches a method ("*..when a the first web page requested by a visitor is forwarded back to that visitor, tracking information, usually in the form of a cookie is transmitted with the requested first page. The cookie which resides on the visitor's client's machine transmits the tracking information back to the web site with the request...*") [see Brag, Par. 0090-0091].

Furthermore, Tamayo, in the same field of endeavor teaches in detail the above limitations, stating among other things "...The selection criteria may be defined by desired results data 1304 and/or by predefined or default criteria included in selection/generation step 1108-6. In addition, the selection criteria may include a limit on the number of predictions/recommendations that are to be selected, or may indicate that the predictions/recommendations are to be sorted based on their associated scores. The selected rows of data are output as predictions/recommendations 1322 from step 1108-6 for transmission in step 1108-7 of process 1100." [see Tamayo; column 21, lines 1-15].

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Brag's teachings of a method and apparatus to store tracking and indications associated with the inclusion or non-inclusion of the visitor or its machine in a sample group, with the teachings of Boyd, for the purpose of "*providing a system and a method for efficiently analyzing traffic data reflecting access information on a web server operating in a distributed computing environment.*" as stated by Boyd in lines 16-20 of column 2.

By this rationale **claims 1** is rejected.

Regarding **claim 2**, the combination Boyd-Barg-Tamayo teaches the method of claim 1, wherein the web page includes web page code, data mining code, and cookie processing script, the method further including the step of operating the cookie processing script on the visitor computer to generate the selection indicator [see *Barg, Par. 0087-0091*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 2 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 2** is rejected.

Regarding **claim 3**, the combination Boyd-Barg-Tamayo teaches the method of claim 1, the method further including:

storing cookie processing script on a second server [see *Boyd, column 13-20*; see *Barg, fig. 1, item 12*; note that the IIS servers of *Barg*];

receiving a request from the visitor computer at the second server [see *Barg, Par. 0090-0091*];

operating the cookie processing script responsive to the request to generate the selection indicator [see *Barg, Par. 0090-0091*]; and

returning the selection indicator to the visitor computer for storage [see *Barg, Par. 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 3 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 3** is rejected.

Regarding **claim 4**, the combination Boyd-Barg-Tamayo teaches the method of claim 1, wherein the first server includes cookie processing script, the method further including the steps of:

operating the cookie processing script responsive to the requesting step to generate the selection indicator [*Barg, Par. 0130-0131; 0090-0092*]; and

returning the selection indicator to the visitor computer for storage [*Barg, Par. 0130-0131; 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 4 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 4** is rejected.

Regarding **claim 5**, the combination Boyd-Barg-Tamayo teaches the method of claim 4, further including the steps of:

embedding an image request within the web page [*Barg, Par. 0130-0132; 0090-0092*];

causing the image request to be sent to a second server [*Barg, Par. 0135-0131; 0090-0092*];

returning an image responsive to the image request [*Barg, Par. 0135-0131; 0090-0092*]; and

setting the selection indicator responsive to the image [*Barg, Par. 0135-0131; 0090-0092*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 5 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 5** is rejected.

Regarding **claim 6**, the combination Boyd-Barg-Tamayo teaches the method of claim 1, further including the steps of:

receiving an image at the visitor computer responsive to the web page request [*Barg, Par. 0135-0131; 0090-0092*]; and

setting the selection indicator to "true" at the visitor computer responsive to a first type of received image, otherwise setting the selection indicator to "false" responsive to a second type of image, wherein the image type is one selected from the group consisting of size or color [*Barg, Par. 0230-0235*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 6 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 6** is rejected.

Regarding **claim 7**, the combination Boyd-Barg-Tamayo teaches the method of claim 6, wherein the selection indicator is set to "true" at the visitor computer responsive to the received image being 1.times.1 pixel in size, and

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wherein the selection indicator is set to "false" responsive to the received image being 1.times.2 pixels in size color [*Barg, Par. 0230-0235*]; Examiner takes notice that 1.times.1 pixels image is well known in the art and that the same motivation that was utilized in the combination of claim 1, applies equally as well to claim 7 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 7** is rejected.

Regarding **claim 8**, the combination Boyd-Barg-Tamayo teaches the method of claim 6, wherein the selection indicator is set to "true" responsive to the received image having a first color, and wherein the selection indicator is set to "false" responsive to received image having a second color [*Barg, Par. 0230-0235*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 8 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 8** is rejected.

Regarding **claim 9**, the combination Boyd-Barg-Tamayo teaches the method of claim 1, further including the steps of:

setting a normalization multiplier in accordance with a ratio between the sample group and the total traffic on the web site; normalizing the traffic activity by a normalization multiplier; and posting the report including the normalized traffic activity for viewing over the network [*see Boyd, column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D, items 41-43*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 9 [*see Boyd, column 2, lines 16-20*]. By this rationale **claim 9** is rejected.

Regarding **claim 10**, the combination Boyd-Barg-Tamayo teaches a method for tracking and reporting traffic activity on a web site comprising the steps of:

storing a web page on a first server coupled to a wide area network, said web page having web page code and data mining code including a cookie processing script [see *Boyd column 6, lines 29-37; fig. 3A, items 10-11*];

uploading the web page to a visitor computer responsive to a request over the wide area network from the visitor computer [see *Boyd, column 6, lines 29-37; fig. 3A, items 10-11*];

operating the cookie processing script on the web browsing data to obtain at least one new cookie value, said new cookie value including a visitor selection value [see *Barg, Par. 0087-0091*]; and

storing the new cookie on the visitor computer including the new cookie value [see *Barg, Par. 0087-0091*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 10 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 10** is rejected.

Regarding **claim 11**, the combination Boyd-Barg-Tamayo teaches the method of claim 10, further including the step of operating the data mining code on the visitor computer to obtain web browsing data responsive to the visitor selection value [see *Barg, Par. 0087-0091*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 11 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 11** is rejected.

Regarding **claim 12**, the combination Boyd-Barg-Tamayo teaches the method of claim 10, further including the step of operating the data mining code on the visitor computer to obtain web browsing data if the visitor selection value is set to "true", otherwise not operating the data mining code on the visitor computer [*Barg, Par. 0230-0235*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 12 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 12** is rejected.

Regarding **claim 13**, the combination Boyd-Barg-Tamayo teaches the method of claim 10, further including the steps of:

attaching the new cookie value to an image request associated with a designated URL source; and sending the image request to the URL source [see *Boyd, column 6, lines 46-67*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 13 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 13** is rejected.

Regarding **claim 14**, the combination Boyd-Barg-Tamayo teaches the method of claim 10, further including the steps of:

operating the data mining code on the visitor computer to obtain web browsing data; compiling the web browsing data into a web page traffic report; and posting the report for viewing over the wide area network [see *Barg, Par. 0084-0088*]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 14 [see *Boyd, column 2, lines 16-20*]. By this rationale **claim 14** is rejected.

Regarding **claim 15**, the combination Boyd-Barg-Tamayo teaches a method for tracking and reporting traffic activity on a web site stored on a web site server, comprising:

receiving a request at the web site server for a web page from a visitor computer [see *Boyd*, column 6, lines 29-37; fig. 3A, items 10-11];

determining whether the request is classified within a sample group; and

returning the web page and associated data mining code for operating on the visitor computer if the request is within the sample group, otherwise returning just the web page [see *Boyd*, column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 15 [see *Boyd*, column 2, lines 16-20]. By this rationale **claim 15** is rejected.

Regarding **claim 16**, the combination Boyd-Barg-Tamayo teaches the method of claim 15, further including:

receiving with the request a cookie including a selection indicator; and

determining whether the request is classified within the sample group responsive to a value of the selection indicator [see *Barg*, Par. 0090-0092]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 16 [see *Boyd*, column 2, lines 16-20]. By this rationale **claim 16** is rejected.

Regarding **claim 17**, the combination Boyd-Barg-Tamayo teaches the method of claim 15, further including:

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generating a selection indicator responsive to the request; and
returning the selection indicator to the visitor computer together with the web page [see *Boyd*, column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D], [see *Barg*, Par. 0090-0092]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 17 [see *Boyd*, column 2, lines 16-20]. By this rationale **claim 17** is rejected.

Regarding **claim 18**, the combination Boyd-Barg-Tamayo teaches the method of claim 17, further including storing the selection indicator as a cookie within the visitor computer [see *Boyd*, column 6, lines 46-67; column 7, lines 1-21; fig. 5, items 40 A-D], [see *Barg*, Par. 0090-0092]. The same motivation that was utilized in the combination of claim 1, applies equally as well to claim 18 [see *Boyd*, column 2, lines 16-20]. By this rationale **claim 18** is rejected.

Allowed claim

5. Claim 19 has been allowed:

The method of claim is further including normalizing the traffic activity from the sample group to obtain normalized data reflecting approximate traffic activity from all visitor computers to the web site.

Reason for allowance

6. The best prior art of record and any combination of Boyd-Barg-Tamayo does not teach a method for tracking and reporting traffic activity on a web site with the step of

normalizing the traffic activity from the sample group to obtain normalized data reflecting approximate traffic activity from all visitor computers to the web site.

Response to Arguments

7. Applicant's Request for Reconsideration filed on 08/25/2005 has been carefully considered but is not deemed fully persuasive. However, because there exists the likelihood of future presentation of this argument, the Examiner thinks that it is prudent to address Applicants' main points of contention.

A. Applicant contends that there is improper hindsight analysis in the first office rejection under US 103(a) and that there is obvious reason to combine Boyd and Barg.

B. Applicant contends that Boyd does not teach storing a selection indicator and tracking only if within a sample group.

C. Applicant contends that Barg does not teach a cookie selection Value of claim 10.

D. Applicant contends that operating or Not Operating the Data Mining Code of claim 15.

8. As to "Point A" it is the position of the Examiner that there is no improper hindsight analysis of the claim invention and that motivation is provided for the use of the prior art of Boyd and Barg which are obviously in the same field of endeavor [See Boyd in lines 16-20 of column 2].

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As to point B, Applicant's argument has been considered and are found persuasive only to the degree that Boyd and Barg may not teach the details of obtaining less than 100% of the traffic data. However, new prior art of Tamayo teaches teaches this limitation of the claim [see Tamayo; column 21, lines 1-15]. As to point C and D, [see rejection of claim 10 above and 15].

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from examiner should be directed to Jude Jean-Gilles whose telephone number is (571) 272-3914. The examiner can normally be reached on Monday-Thursday and every other Friday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-9000.

Jude Jean-Gilles

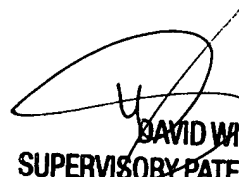
Patent Examiner

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JJG



November 12, 2005



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